

BEFORE THE
GOVERNING BOARD
ANTELOPE VALLY UNION HIGH SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

CESAR AYLLON and Other Certificated
Permanent and Probationary Employees of
the Antelope Valley Union High School
District,

Respondents.

OAH Case No. 2011030836

PROPOSED DECISION

This matter was heard by Vincent Nafarrete, Administrative Law Judge, Office of Administrative Hearings, on April 25 and 28, 2011, and May 10 and 11, 2011, in Lancaster.

Antelope Valley Union High School District was represented by James B. Fernow, Attorney at Law, and Maggy M. Athanasious, Attorney at Law, of the law firm Fagen, Friedman & Fulfroost, L.L.P.

Respondents David Alvarez, Patricia Beane, Natalie Brooks, Daniel Ray Brown, Daphene Cowan, June Davidson, Kimberly Fields, Stephanie Franklin, Nathan Gilmore, Jeremiah Griffey, Stacy Hardcastle, Jamie Henderson, Justin Holtfreter, Teresa Kindermann, Christopher Langenohl, Kevin Mahady, Lala Markosian, Robert Marshall, Joy McCall, Melonie Morgan, Lia Navas, Colleen Nua, Kristine Parsons, Corinne Reinford, Socorro Reyes, Garret Root, Christopher Saucke, Muriah Shanklin, Chad Shrout, Curt Stephan, Ada Tellez, John Viverito, Shannon Williams, and Carol Wood were represented by Michael R. Feinberg, Attorney at Law, and Gening Liao, Attorney at Law, of the law firm Schwartz, Steinsapir, Dohrmann & Sommers, L.L.P.

Respondents Pablo Andrade, Cesar Ayllon, Michael Bernard, Briana Blundell, David Cooper, Jill Dabo, Daniel Gorman, Karin Howard, Jada Jackson, Sabrina Jobb, Stella Konisek, Akilah Lyons-Moore, Migena Mendez, Alesia Stonerock, Robin Stump, Susan Sztain Edminster, Michelle Teare, Juan Vazquez, and Rachel Young were represented by

Brenda E. Sutton-Wills, Attorney at Law, Department of Legal Services, California Teachers Association.¹

On the first day of hearing, the Administrative Law Judge held a prehearing conference with the parties and was informed that the original two-day setting for the hearing was not sufficient to complete the hearing. Accordingly, the parties stipulated that three additional days should be added to the hearing on May 10 – 12, 2011. In addition, the parties requested that they be allowed to file written argument at the conclusion of the evidentiary phase of the hearing. The parties' request was granted. Accordingly, the statutory deadlines for issuance of the proposed decision and for notifying certificated employees of the termination of their services under Education Code section 44949 and 44955, subdivision (c)(3), were extended for the period of time equal to the additional days required for the hearing and for submission of written arguments.

At the conclusion of the continued hearing, the Administrative Law Judge set a schedule for the filing of briefs. On May 24, 2011, one of respondents' counsels, Michael R. Feinberg, filed a request for a two-day extension to file a post-hearing brief due to illness and indicated that other counsels did not object to the extension request. The Administrative Law Judge granted the request, directing the parties to file written argument by May 31, 2011. On May 25, 2011, respondent's counsel filed a letter in which the parties agreed that post-hearing briefs would be filed on May 31, 2011, and that the proposed decision would be due on June 7, 2011.

On May 27, 2011, Brenda E. Sutton-Wills, Attorney at Law, filed a Post-Hearing Brief on behalf of certain respondents named above, which was marked as Exhibit R-15. On May 31, 2011, complainant's counsel, James B. Fernow, and, counsel for other respondents, Michael R. Feinberg, filed closing briefs which were marked as Exhibits 28 and Y, respectively.

Oral, documentary, and stipulated evidence and written arguments having been received, the Administrative Law Judge submitted this matter for decision on May 31, 2011, and finds as follows:

¹ Jonathan Fitch was named on the list of respondents represented by the California Teachers Association's counsel. However, as set forth in Exhibit 6, Fitch as well as Donny Galland and Morgan Harman are interns with the District. While the three of them are probationary zero, certificated employees of the District and were served with precautionary preliminary layoff or release notices, Education Code section 44464 provides that interns are not afforded the right to a hearing under Education Code section 44949 to determine if there is cause for not re-employing them for the next school year. As such, Fitch as well as Galland and Harman are not respondents for purposes of this certificated layoff matter.

FACTUAL FINDINGS

1. The Administrative Law Judge takes official notice that, on March 28, 2011, the Accusation was made and filed by Mark A. Bryant in his official capacity as Assistant Superintendent, Personnel Services, Antelope Valley Union High School District, State of California (District).

2. Respondents, and each of them, are employed by the District as permanent or probationary certificated employees.

3. The District is a high school district comprised of eight comprehensive high schools, continuation and community day schools, and a regional occupational program. The District serves and educates approximately 23,000 pupils who reside in the Lancaster and Palmdale area of northeast Los Angeles County and employs about 2,000 staff, including approximately 1,000 teachers.

4. Due to the ongoing economic downturn in the state, the anticipated reduction in State funding, and the concomitant effects upon its budget, the District determined that it faces a budget deficit of approximately \$1.5 million for the next school year and must reduce its expenditures to maintain a balanced budget. On March 8, 2011, the Superintendent recommended to the Governing Board that the District reduce services and staffing for the 2011-2012 school year.

5. (A) On March 8, 2011, in Resolution No. 2010-11-20, pursuant to Education Code sections 44949 and 44955 and based upon the recommendation of the Superintendent, the Governing Board determined that it was necessary and in the best interests of the District and its students to reduce or discontinue certain particular kinds of services at the close of the current 2010-2011 school year and to terminate the employment of the corresponding number of probationary and permanent certificated employees.

(B) The Governing Board directed the Superintendent to serve appropriate notices on all probationary or permanent certificated employees whose services must be terminated in accordance with and in the manner prescribed by Education Code sections 44955 and 44949 in order to reduce or discontinue particular kinds of services specified in the resolution. The Governing Board further resolved that its resolution did not confer any status or right upon temporary or categorically-funded project certificated employees in addition to those rights specifically granted to them by statute.

6. Beginning on or about March 11, 2011, and pursuant to Resolution No. 2010-11-20, and the provisions of Education Code sections 44949 and 44955, the Superintendent served or gave written notices by personal service and certified mail upon 107 certificated employees, advising them that their services will be terminated at the close of the current school year because the Governing Board had resolved to reduce or discontinue certain particular kinds of services and determined that it was necessary to terminate the employment of certain certificated employees. The District served "precautionary"

preliminary layoff notices upon teachers at two high schools, Eastside and Littlerock. The District has planned to skip these teachers. The preliminary notices included Resolution No. 2010-11-20 with the list of particular kinds of services and the tie-breaking criteria, copies of Education Code sections 44949 and 44955, and requests for hearing forms. Respondents acknowledged receipt of the preliminary layoff notice and timely requested a hearing to determine if there is cause for not re-employing them for the ensuing school year. There were several certificated employees originally served with preliminary notices who did not file requests for hearing (Exh. 7).² In addition, on March 17, 2011, Michael R. Feinberg, Attorney at Law, filed a Joint Request for Hearing on behalf of 91 certificated employees of the District.

7. The District's preliminary notice of layoff dated March 9, 2011, was sufficient in providing notice to respondents under Education Code sections 44949 and 44955. Respondents were not prejudiced by errors in the preliminary notices, if any, with respect to the spelling of their names, work or school locations, assignments, or any other matters. No claims or complaints were raised in the hearing that the preliminary notices or contents thereof were deficient in any respect.

8. Beginning on or about March 28, 2011, the District properly served 95 respondents or certificated employees, and each of them, by personal delivery with an Accusation, Statement to Respondent, Resolution No. 2010-11-20, copies of Government Code sections 11506, 11507.5, 11507.6, 11507.7, and 11520 and Education Code sections 44949 and 44955, a blank Notice of Defense form, and a Notice of Hearing. All of the respondents acknowledged receipt of the Accusation and filed timely Notices of Defense, objecting to the Accusation and requesting a hearing to determine if there is cause not to employ them for the ensuing school year. On March 29, 2011, a Joint Notice of Defense was filed on behalf of 91 certificated employees. All prehearing jurisdictional requirements have been met by the parties.

9. On March 8, 2011, in Resolution No. 2010-11-20, the Governing Board adopted tie-breaking criteria, which set forth 15 criteria to be used in determining the order of termination or layoff of certificated employees who have the same first date of paid service with the District. Under the tie-breaking criteria, the Governing Board gave the four highest tie-breaking priorities to the possession of a clear credential with an English Learners (EL) authorization, possession of a preliminary credential with an EL authorization, possession of a clear credential without an EL authorization, and possession of a preliminary credential without an EL authorization. The fifteenth and last tie-breaking criteria is a lottery drawing of remaining certificated candidates. The Governing Board found that the tie-breaking criteria were based solely on the needs of the District and its students.

² Except for respondent Juan Vazquez, the certificated employees named in the "No Request for Hearing" (Exh. 7) are not respondents in this matter.

10. On March 8, 2011, pursuant to Resolution No. 2010-11-20 and its findings, the Governing Board resolved and took action to reduce or discontinue certain services or programs offered by the District for the 2011-2012 school year in the following full-time equivalent (FTE) positions:

<u>Teaching Services</u>	<u>Full-Time Equivalent Positions</u>
English	12.0
Math	2.0
Social Science	14.0
Earth Science/Geoscience	2.0
Chemistry	1.0
Life Science	4.0
Foreign Language—Spanish	3.0
Behavioral Science (Health)	6.0
Special Education (RSP)	1.0
Physical Education	7.0
Agriculture	1.0
Business	5.0
Auto	1.0
Foods/Crafts	1.0
Work Experience	1.0
Sub-Total Teachers	61.0
<u>Other Services</u>	
Counselors	2.0
Adult Education	2.0
Sub-Total Other Services	4.0

The reduction or discontinuance of the services set forth hereinabove constitute a total of 65.0 FTE positions.

11. The services set forth in Finding 10 above are particular kinds of services performed by certificated employees of the District which may be reduced or discontinued within the meaning of Education Code section 44955. The determination of the Governing Board to reduce or discontinue these services is within its sound discretion and not arbitrary or capricious. The District demonstrated that the reduction or discontinuance of these particular kinds of services is related to the welfare of the District and its pupils and is necessary in order for the District to maintain a balanced budget as well as to provide essential services.

12. (A) The District prepared a Seniority List Certificated in both inverse numerical order and alphabetical order, which contains the names of certificated employees, their employment status, seniority dates or first dates of paid service, credentials, positions, and sections for the 2010-2011 school year.

(B) The District applied the tiebreaking criteria to respondents who first rendered paid service in a probationary position on the same dates and prepared Certificated Tie Breaking Forms showing application of the tiebreaking criteria for individual certificated employees.

(C) The District identified the most junior certificated employees in each service area, determined whether respondents hold credentials in other areas of service or teaching and may be entitled to bump other certificated employees, determined whether certain certificated employees should be skipped and retained, and prepared bumping analyses.

13. Further, the District has obviated the need to reduce or discontinue all of the particular kinds of services described in Finding 10 above and the need to terminate the employment of all certificated employees given preliminary notice and accusations by taking into account personnel changes and attrition due to reassignments, retirements, and resignations of individual certificated employees within the District. The District has reasonably determined and accounted for what will be positively assured attrition among its certificated staff for the ensuing 2011-2012 school year and reduced by corresponding number the number of certificated employees whose employment must be terminated be due to the reduction or discontinuance of particular kinds of services.

14. (A) On the first day of the hearing, the District presented a Rescind Notice list (Exh. 5) in which the District rescinded the preliminary layoff notices that had been served on the following 38 respondents: Alma Del Llano, Andrea Fuller, Ashlie Kramer, Bernice Fontanills, Carol Smith, Corey Guilfoos, Daniel Henderson, David Butzke, David Dunstan, David Perry, Denise Schultz, Devon Cooper, Eric Long, Jamie Van Norman, Jessica Centonze-Moll, John Najar, Leann Washington, Marco Reyes, Mark Robinson, Melody Briseno, Michael Dutton, Michael Ybarra, Mitchell Dabo, Patricia O'Keefe, Perleen Smith, Rochelle Miser, Ryan Rivas, Scott Rundblade, Terry O'Connor, Tiffanie Marley, William Holmes, Indira Molina, Latisha Sampson, Martha Alatorre, Monica Gottschalk, Sandra Gordon, Scott Booth and Tameiko Rose.

(B) On the second day of the hearing, the District rescinded the preliminary notice served upon the single respondent Anthony Martinez. On the third day of the hearing, the District presented an amended Rescind Notice (Exh. 5) in which the District rescinded the preliminary layoff notices that had been served on the following 32 additional respondents: David Alvarez, Pablo Andrade, Richard Assad, Patricia Beane, Briana Blundell, Jeremiah Brooks, Daniel W. Brown, Mariane Brown, Stephanie Franklin, Nathan Gilmore, Thomas Grady, Jeremiah Griffey, Stacey Hardcastle, Stephanie Herrera, Karin Howard, Sabrina Jobb, Kevin Mahady, Lala Markosian, Robert Marshall, Melonie Morgan,

Lia Navas, Colleen Nua, Corinne Reinford, Socorro Reyes, Christopher Saucke, Curt Stephan, Robin Stump, Susan Sztain Edminister, Michelle Teare, John Viverito, Shannon Williams, and Carol Wood.

15. Before and during the hearing in this matter, the District thus rescinded the preliminary notices that had been served on 71 respondents. Based on these rescissions and after accounting for attrition, the District now proposes to reduce or discontinue particular kinds of services totaling 20.0 FTE for the 2011-2012 school year. In addition, the District proposes to skip 15 certificated employees at two of its high schools, 11 certificated employees at Eastside High School and four certificated employees at Littlerock High School, including three intern teachers, under the provisions of Education Code section 44955, subdivision (d). The District contends that it has specific needs for teachers to teach a specific course of study under School Improvement Grant programs at the two high schools and that each of these 15 certificated employees possesses special training and experience needed to continue teaching in those courses of study that other more senior certificated employees do not possess.

School Improvement Grants

16. (A) On June 30, 2010, the District filed an Application for Funding to obtain a School Improvement Grant (SIG) from the California Department of Education (CDE) for both Eastside High School (EHS) and Littlerock High School (LHS). Both EHS and LHS are considered program improvement schools by the CDE as well as persistently lowest achieving schools at the bottom five percent for student achievement under the federal No Child Left Behind law. Over the two or three school years preceding its SIG application, the District had worked with site administrators to try to improve both schools by implementing new educational structures and strategies but determined that it needed additional funding to fully implement reform measures, realize the gains from these measures, and to improve the schools.

(B) To obtain SIG funding, a school district is required to design, implement, and sustain an educational program through a collaborative organizational process and structure that may be comprised of school and school district representatives, students, parents, governing board, and support providers and must be based on a needs analysis of the school. Here, the District formed a leadership team of administrators and coordinators from the District, EHS, and LHS, obtained data from various sources, and conducted needs analyses of the two high schools by assessing the current conditions, reviewing student achievement data, and conducting surveys of staff and the community. Based on the data and needs analyses, the Governing Board determined to apply for SIG funding to implement the Transformational Model at both high schools to improve student achievement and eliminate the designations that the schools were program improvement schools.

(C) Under the Transformational Model for correcting or improving academic achievement at a school, the District was required to replace the principal, use a rigorous

system for the evaluating teachers and administrators that takes into account student achievement data and classroom observations, retain high performing teachers, and provide teachers and staff with ongoing, high-quality, professional development that is embedded with instructional strategies. Here, the District decided upon a strategy of providing teachers with more intensive and specific professional development that emphasized collaboration, more instructional coaching and technological supports, and increased instructional time. The District selected the UCLA School Management Program to provide technical assistance in developing and implementing the Transformational Model and professional development to address identified needs. The District applied for SIG funds to finance and facilitate the implementation of its strategy to improve the quality of teaching and student achievement at EHS and LHS.

17. For anticipated vacancies at EHS and LHS for the 2010-2011 school year, the District published and issued job postings in various subjects, including Biology, English, and Math. The District sought applicants or transfers who had experience or knowledge in professional collaboration, standards-based instruction and curriculum, research-based instructional strategies, formative assessments, and basic computer programs such as PowerSchools and PowerPoint. The District also stated that the preferred qualifications for these jobs included the past participation in the administration of interim and summative assessments, such as Benchmark examinations; use and interpretation of data for instruction; participation in collaborative, data-driven discussions; high proficiency in research-based instructional strategies, such as Specially Designed Academic Instruction in English (SDAIE) and Advancement Via Individual Determination (AVID); and willingness to participate in professional development to expand teaching efficacy and use performance on standardized tests to define student achievement.

18. In or about August 2010, the CDE approved the District's SIG application and the District was authorized to receive SIG funding of \$5 million for EHS and \$5 million for LHS over three years. According to the budgets submitted with its SIG application, the District proposed to expend for the 2010-2011 school, in part, the sum of \$100,000 at EHS and \$84,000 at LHS for professional development and \$230,000 at EHS and \$60,000 at LHS for computers and technological hardware for instructional and data programs support. At the commencement of the 2010-2011 school year, the District received the first year's SIG funding for EHS and LHS and began implementing educational strategies at the two high schools to improve instruction and student performance, including data analysis, teacher collaboration, new technology, and professional development. Attendance for teachers at the professional development sessions at EHS and LHS was voluntary and not mandatory.

19. In this proceeding, the Assistant Superintendent of Personnel testified that the District seeks to skip teachers at EHS and LHS because it is not only in the best interests of the schools and pupils but also the District has made an investment in the teachers by training them and needs the teachers to maintain the changed academic milieu at the schools and implement the educational strategies under the SIG application. The SIG funding may be terminated if progress is not made at the two high schools. The Director of School Improvement and Curriculum added, in part, that the SIG funding is important because it

allows for the provision of more professional development for teachers. With the training from professional development sessions, teachers are able to implement educational intervention strategies, assist students to perform better, and facilitate the improvement of the schools. The testimony of the two District administrators was credible and persuasive and not contradicted by any other evidence.

Eastside High School

20. (A) EHS is the newest high school in the District, for its new state-of-the-art facility was first used in the 2009-2010 school year. With approximately 2,500 pupils and 100 teachers, EHS has a diverse student population that is 34 percent African-American, 49 percent Hispanic, and approximately 40 percent at the poverty-level. EL, special education, and minority pupils have been performing lower on standardized tests. Student performance has also been low in math and literacy. A majority of the pupils qualify for funds for reading skills classes that use Read 180 to teach reading and writing skills so that they can attain literary skills at or above grade level.

(B) Before the approval of and as set forth in the District's SIG application, most of the teachers at EHS were considered highly qualified. EHS teachers already used a collaborative model for instructional planning and analyzing student performance as well as pacing guides and benchmark assessments. However, EHS teachers were not trained on research-based practices and instruction, were not monitored on their use of instructional coaching services, did not take advantage of available training, and were not implementing professional development lessons and strategies into their classrooms. Training had been offered on Thinking Skills, Cornell Interactive Note Taking, SDAIE strategies, Classroom Walk-Throughs, Lesson Study, Benchmark Data Analysis, AVID Methodologies, and Pictorial Math. Teachers did not know how to access information from the school's data system or how to use the information to improve their instruction.

(C) In July 2009, the District appointed a new principal for EHS who began changing the academic environment and culture at the school by raising pupils' expectations, training and retaining teachers, emphasizing collaboration among teachers, conducting frequent student assessments, and analyzing data from tests and assessments. The principal implemented a system of periodic Fortnightly and Benchmark Assessments followed by evaluations of the assessments, changes in instruction and the pace of learning, and re-teaching of subject matter. In the 2009-2010 school year, the District provided initial funding for professional development and instructional coaches in special education, AVID, literacy and math support, and English Learners.

(D) With the receipt of SIG funding for 2010-2011 school year, the District has sought to further implement educational strategies to improve student achievement, conduct frequent assessments, use the data system to track and analyze test results, modify pacing guides and lesson plans based on test results and data analysis, increase time for re-teaching and learning, create a teacher evaluation and reward system based on student

performance in cooperation with the teachers' association, provide increased classroom walk-through opportunities, install new technology in the classrooms such as CPS Clickers and APEX, create a teacher mentor program for pupils, and build community and family support for the school.

(E) Moreover, the District applied for SIG funding in order to provide teachers with additional paid time for collaborative and more in-depth professional development that emphasized use of evidence-based educational strategies, classroom walkthroughs, frequent assessments, measures of changes in instructional practices, and technological supports. After it received SIG funds for EHS, the District began providing EHS teachers with professional development sessions starting on the furlough days of August 4 – 5, 2010, when teachers received training in AVID, literacy, and math support; technology support including Powerschools, CPS Clickers, Document Cameras, and Cornell Interactive Note Taking; as well as data analysis and Fortnightly Assessments. Thereafter, the District provided additional professional development throughout the 2010-2011 school year in areas such as Fortnightly Assessments, Benchmark Assessments, Pacing Guide Collaboration, Test Taking Strategies, APEX computer classes, and data analysis and debriefing. The list, dates, agendas, and teacher sign-in sheets for these professional development sessions at EHS are contained in the District's Exhibit 23.

21. After one school year of implementing educational strategies and providing professional development under the Transformational Model at EHS, the District's Director of School Improvement and Curriculum has seen improvement in student's performance in English language arts and math at EHS. The principal at EHS has found that teachers and staff have adopted and become invested in the collaborative strategies of the Transformational Model for the high school and he has seen progress by students in all subject matter areas. As established by the testimony of respondents whom the District proposes to skip at EHS, the environment at the high school has changed in the past year. Teachers are more involved in collaborative efforts in lesson planning, analyzing and debriefing data from assessments, and modifying instruction. Core classes are equipped with new technology. Students are paying more attention to academics and standardized test results. Teachers at EHS have become open and receptive to criticism, suggestions, and feedback from colleagues in collaboration and department debrief meetings. Professional development sessions have been important in allowing teachers to assess and modify their instruction and to learn to use the new technology in the classrooms.

22. Based on Findings 16 – 21 above, the District demonstrated that the educational interventions of collaboration, standards and research-based curriculum and instruction, formative assessments, and technological innovations implemented at EHS constitutes a course of study and that it has a specific need for personnel to teach this course of study at EHS within the meaning of Education Code section 44955, subdivision (d).

Eastside High School Teachers

23. (A) Respondent Daniel Gorman is a U.S. history and AVID teacher at EHS. He possesses a clear single subject credential in social science and certifications in EL and SDAIE. Gorman's seniority date is August 6, 2007, and he has been teaching at EHS since the fall of 2008. Currently, he is taking courses for a Master's degree in educational technology and expects to complete the requirements for the degree in August 2011.

(B) During the 2010-2011 school year, Gorman received training in SDAIE strategies from the EL instructional coach, interactive note taking, inquiry method, and Socratic Seminars from the AVID instructional coach, special education strategies from the special education instructional coach, and school-wide vocabulary and Read 180 from the literacy instructional coach

(C) During the 2010-2011 school year, Gorman received professional development in programs, technology, data analysis, and Fortnightly Assessments on August 4 and 5, 2010; at the SIG update on October 27, 2010; in AVID Benchmark Data review and Miramonte test taking strategies training on November 17, 2010; in the use of CPS Clickers on February 2, 2011; in Curriculum, Assessments, and Pedagogy at workshops on February 16, 2011; and in the use of APEX on March 3, 2011.

(D) Gorman did not attend the professional development at EHS on CPS Clickers on September 8, 2010; the Fortnightly Assessment training on September 22, 2010; the Benchmark training on October 13, 2010; the classroom observation, CPS Clickers, and Benchmark Debrief training on November 3, 2010; the social studies pacing guide collaboration on November 10 and December 8, 2010; the Benchmark Debrief on January 19, 2011; the CLUB Mentor informational meeting on March 3, 2011; and the Data Debrief on March 30, 2011.

(E) The District determined that the Algebra collaboration on December 8, 2010; the English CWT Debriefs on January 12 and 26, 2011; and the graphing calculator workshop on January 26, 2011, were not applicable to Gorman's assignment or position at EHS.

24. (A) Based on Findings 23(A) – (E) above and the District's Summary of Professional Development Dates (Exh. 23-B), Gorman attended seven of the 15 (47 percent) professional development sessions that were offered and relevant to his teaching assignment in social science at EHS during the 2010-2011 school year.

(B) Based on Findings 16 – 21, 23(A) – (E), and 24(A) above, it was not established that respondent Gorman has special training and experience necessary to continue teaching in the collaborative and assessment and data-driven course of study at EHS. He missed 53 percent of the professional development offered at EHS during the past school year. Significantly, Gorman did not attend the two-day professional development on social studies pacing guide collaboration which was relevant to this assignment in social

science. In addition, he did not offer any specific testimony or evidence showing that he has been involved in Fortnightly Assessments, analysis of assessment data, lesson planning, use of new technologies, and collaborative efforts to modify tests and his teaching. Respondent Gorman may not skipped to teach social science at EHS pursuant to Education Code section 44955, subdivision (d).

25. (A) Respondent Akilah Lyons-Moore is a social science teacher at EHS and teaches five periods of civics. She has a clear single subject credential in social science and certifications in EL and SDAIE. Her seniority date is August 6, 2007.

(B) During the 2010-2011 school year, Lyons-Moore received professional development and training from instructional coaches at EHS in SDAIE and special education strategies. Contrary to the summary of instructional coach services, it was not established that Lyons-Moore received any training in interactive note taking, inquiry method, or Socratic Seminars from the AVID instructional coach.

(C) During the 2010-2011 school year, Lyons-Moore attended the professional development on programs, technology, data analysis, Fortnightly Assessments, Document Cameras, and interactive note taking on August 4 and 5, 2010; at the SIG update on October 27, 2010; on social studies pacing guide collaboration on November 10 and December 8, 2010; on AVID Benchmark data review and Miramonte test taking strategies training on November 17, 2010; on Benchmark Debriefing on January 19, 2011; to use CPS Clickers on February 2, 2011; at the CLUB Mentor informational meeting on February 3, 2011; and to use APEX on March 3, 2011.

(D) Lyons-Moore did not attend the CPS Clickers training on September 8, 2010; the Fortnightly Assessments training on September 22, 2010; the Benchmark professional development on October 13, 2010; the Benchmark Debrief on November 3, 2010; the Curriculum, Assessment, and Pedagogy workshops on February 16, 2011; and the Data Debrief on March 30, 2011.

(E) The District has determined that the Algebra collaboration on December 8, 2010; the English CWT Debriefs on January 12 and 26, 2011; and the graphing calculator workshop on January 26, 2011, were not applicable to Lyons-Moore's assignment as a social studies teacher at EHS.

26. (A) Based on Findings 25(A) – (E) above and the District's Summary of Professional Development Dates, Lyons-Moore attended nine of the 15 (60 percent) professional development or training sessions that were offered and relevant to her teaching assignment in social science at EHS during the 2010-2011 school year. As such, she attended a majority of the training sessions.

(B) Lyons-Moore has attended staff meetings where she has collaborated with Spanish, English, and physical education teachers. She communicates and confers with other teachers and has seen how her colleagues are more open to suggestion. She also participates

in the CLUB Mentor program at EHS. She attended the one hour informational meeting and then participated in a second half-hour meeting where she was administered a personality test and introduced to her student mentee. The CLUB Mentor program is designed for teachers to mentor pupils who are performing at a mid-academic level and not involved in extra-curricular activities. Mentor teachers are to help the pupils to navigate around the high school and to deal with conflicts at school and at home. Lyons-Moore meets with her mentee on a weekly basis. While she did attend training for CPS Clickers, Lyons-Moore does not use the CPS Clickers system in her classroom. Because she teaches civics and economics to high school seniors, Lyons-Moore does not administer Benchmark examinations.

(C) Based on Findings 16 – 21, 25(A) – (E), and 26(A) – (B) above, respondent Lyons-Moore has special training and experience necessary to teach social science in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess.

27. (A) Respondent Jill Dabo is an English teacher at EHS. Her seniority date is August 2, 2010, and possesses a clear single subject credential in English with EL and SDAIE certifications. She teaches five periods of English.

(B) During the 2010-2011 school year, Dabo received professional development and training from instructional coaches at EHS in interactive note taking and Socratic Seminars, SDAIE strategies, implementation of CPS Clickers and Document Cameras technology, and literacy support.

(C) Even though her first date of paid service with the District was August 2, 2010, Dabo did not attend the two-day professional development program on August 4 and 5, 2010, which were furlough days. Dabo did not attend the CPS Clickers training on September 8, 2010, or the Benchmark professional development on October 13, 2010. Nor was it established that she attended the Fortnightly Assessment training session for the English department on September 22, 2010. Dabo did not attend the professional development on March 30, 2011, where EHS teachers discussed data analysis and reviewed lessons and created assessments in accordance with standards.

(D) The first professional development that Dabo attended at EHS was the October 27, 2010 meeting when updated information on SIG was provided to staff. Thereafter, Dabo attended professional development at the staff meeting on November 17, 2010, when AVID Benchmark data was discussed and training given on the Miramonte test taking strategies; at the Classroom Walk-Throughs (CWT) Debriefing in English on January 12 and 26, 2011; at the Benchmark Debrief on January 19, 2011; at the CPS Clickers training session on February 2, 2011; at the CLUB Mentor informational meeting on February 3, 2011; at the UCLA test taking strategies workshop at the February 16, 2011 staff meeting; and at the APEX training on March 3, 2011.

(F) In addition, Dabo did not attend the social studies pacing guide collaboration on November 10 and December 8, 2010; the Algebra collaboration session on December 8, 2010; or the graphing calculator workshop on January 26, 2011. These training sessions were not applicable to Dabo's assignment or teaching area of English.

28. (A) Based on Findings 27(A) – (F) above and the District's Summary of Professional Development Dates, respondent Dabo attended eight of 15, or 53 percent, professional development or training sessions that were available and relevant to her teaching assignment at EHS during the 2010-2011 school year. She missed the first two sessions on the furlough days of August 4 and 5, 2010, because she was only hired by the District on August 2, 2010.

(B) As set forth in the letter of the literacy instructional coach, Dabo participated in classroom walk-throughs and afterwards taught her students how to annotate text in order to increase their reading comprehension on suggestion of the literacy coach. In addition, Dabo participated in post-Benchmark collaboration meetings to review data and determine teaching strategies to improve the students' learning. Dabo was trained on and is able to use APEX and CPS clickers and is a mentor to a pupil. In the current spring 2011 semester, Dabo has used APEX to help students in English. She has not yet learned how to effectively use the CPS Clickers system in her classroom.

(C) Based on Findings 16 – 21, 27(A) – (F), and 28(A) – (B) above, respondent Dabo has special training and experience necessary to teach English in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess. Dabo attended a majority of the relevant professional development sessions that were offered and provided evidence of her experience.

29. (A) Donny Galland is an intern teacher in Spanish at EHS. He possesses an intern credential in Spanish with EL and SDAIE certifications. He teaches five periods of Spanish. Galland is completing the requirements for his credential at California State University Northridge. His seniority date is August 10, 2009.

(B) During the 2010-2011 school year, Galland has received professional development and training from instructional coaches at EHS in interactive note taking, special education strategies, and literacy support.

(C) Galland attended the professional development on programs, Powerschools, CPS Clickers, Document Cameras on August 4, 2010; on model data analysis, Fortnightly Assessments, Document Cameras, and Interactive Note Taking on August 5, 2010; at the Benchmark review on October 13, 2010; at the SIG update on October 27, 2010; at the staff meeting on November 17, 2010, where AVID Benchmark data was discussed and training on the Miramonte test taking strategies was provided; the Benchmark Debrief on January 19, 2011; on Curriculum, Assessment, and Pedagogy on February 16, 2011; on the

use of APEX on March 3, 2011; and at the data analysis and standards debrief on March 30, 2011.

(D) Galland did not attend the professional development on CPS Clickers on September 8, 2010; the session on Fortnightly Assessments on September 22, 2010; the Benchmark Debrief and CPS Clickers training on November 3, 2010; and the CLUB Mentor informational meeting on February 3, 2011.

(E) Galland did not attend the social studies pacing guide collaboration on November 10 and December 8, 2010; the Algebra collaboration on December 8, 2010; the English CWT Debriefs on January 12, and 26, 2011; the graphing calculator workshop on January 26, 2011; and the CPS Clickers training on February 2, 2011. The District determined that these professional development sessions were not relevant to Galland's teaching assignment in Spanish.

30. (A) Based on Findings 29(A) – (E) above and the District's Summary of Professional Development Dates, Galland attended nine of the 13 (70 percent) professional development or training sessions that were available to him and relevant to his teaching assignment in Spanish at EHS during the 2010-2011 school year.

(B) During the professional development on October 13, 2010, Galland participated in a cross-curricular break-out session with social science teachers to discuss improvement of Benchmark examination scores. During the Benchmark Debrief on January 19, 2011, Galland participated in cross-curricular training sessions with social science teachers to discuss why students were scoring poorly on questions on the French Revolution. After receiving training on the Miramonte test taking strategies, Galland helped to develop questions for social science tests. He participated in meetings where school staff discussed ways to improve students' Benchmark scores and also helped create a foreign language pacing guide for the foreign language department. Galland did not use the CPS Clickers system this school year because EHS does not have the CPS Clickers system available for use in foreign language classes.

(C) Based on Findings 16 – 21, 29(A) – (E), and 30(A) – (B) above, respondent Galland has special training and experience to teach Spanish in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess. Galland attended a majority of the professional development sessions that were relevant to his assignment and provided evidence of his experience.

31. (A) Respondent Megina Mendez is an English teacher at EHS and teaches three periods of English and two period of Support. She holds a clear single subject credential in English and has a seniority date of September 7, 2010.

(B) During the 2010-2011 school year, Mendez received professional development and training from instructional coaches at EHS in SDAIE strategies, interactive

note taking, inquiry method, Socratic Seminar, special education strategies, and literacy support.

(C) Mendez attended the professional development in Fortnightly Assessments on September 22, 2010; on Benchmark Debriefing on October 13, 2010; at the SIG update on October 27, 2010; on Benchmark Debriefing and CPS Clickers training on November 3, 2010; on the AVID Benchmark Data review and Miramonte test taking strategies training on November 17, 2010; on CWT Debriefs for English on January 12 and 26, 2011; on the use of CPS Clickers on February 2, 2011; at the CLUB Mentor informational meeting on February 3, 2011; on Curriculum, Assessment, and Pedagogy on February 16, 2011; on the use of APEX on March 3, 2011; and at the Data Debriefing on March 30, 2011.

(C) Because she did not begin working for the District until September 7, 2010, Mendez was not able to attend the professional development training on August 4 and 5, 2010, and the CPS Clickers training on September 8, 2010. In addition, Mendez did not attend the Benchmark Debrief on January 19, 2011.

(D) The District has determined that the social studies pacing guide collaboration on November 10 and December 8, 2008; the Algebra collaboration on December 8, 2010; and the graphing calculator training on January 26, 2011, were not applicable to Mendez's teaching assignment in English.

32. (A) Based on Findings 31(A) - (D) above and the District's Summary of Professional Development Dates, Mendez attended 11 of the 15 (73 percent) professional development or training sessions that were offered and relevant to her teaching assignment in English at EHS during the 2010-2011 school year. She missed three sessions because she was hired after those sessions were held by EHS.

(B) In collaboration with the literacy coach, respondent Mendez created a pacing guide for the English department's Read 180 team. Mendez met with members of the Read 180 team to align standards for the Read 180 class. She also teaches a Read 180 class. In addition, Mendez helped to develop word lists for the EHS' vocabulary program. Mendez did not receive any professional development from the EHS' technology implementation instructional coach. She does not use CPS Clickers in her Read 180 class but instead uses a Read 180 computer program. Mendez meets regularly with the literacy instructional coach to discuss her Read 180 program. She is mentoring a student under the CLUB Mentor program.

(C) Based on Findings 16 – 21, 31(A) – (D), and 32(A) – (B) above, respondent Mendez has special training and experience to teach English in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess. Mendez attended a majority of the professional development sessions that were relevant to her assignment and provided evidence of her experience.

33. (A) Respondent Alesia Stonerock holds a clear single subject credential in social studies. She has EL and SDAIE certifications. Her seniority date is September 10, 2007. After teaching at Antelope Valley High School for three years, Stonerock transferred to EHS for the current school year. She teaches four periods of world history and one period of U.S. history at EHS.

(B) During the 2010-2011 school year, Stonerock received professional development and training from instructional coaches at EHS in SDAIE strategies, technological implementation of CPS Clickers and Document Cameras, interactive note taking, special education strategies, and literacy support.

(C) Stonerock attended the professional development on Fortnightly Assessments on September 22, 2010; on Benchmark examinations on October 13, 2010; at the SIG update on October 27, 2010; at the social studies pacing guide collaboration on November 10 and December 8, 2010; on the AVID Benchmark data review and Miramonte test taking strategies training on November 17, 2010; at the CPS Clickers training on February 2, 2011; on Curriculum, Assessment, and Pedagogy at the workshops on February 16, 2011; for training on APEX on March 3, 2011; and at the Data Debrief on March 30, 2011.

(D) Stonerock did not attend the two-day professional development on August 4 and 5, 2010, because she had not yet transferred to EHS by those dates. She failed to attend the CPS Clickers training on September 8, 2010; the Benchmark Debriefs on November 3, 2010, and January 19, 2011; and the CLUB Mentor informational meeting on February 3, 2011.

(E) The District determined that the Algebra collaboration training on December 8, 2010; the English CWT Debriefs on January 12 and 26, 2011; and the graphing calculator workshop on January 26, 2011, were not applicable to Stonerock's teaching assignment.

34. (A) Based on Findings 33(A) – (E) above and the District's Summary of Professional Development Dates, Stonerock attended nine of 15 (60 percent) professional development or training sessions that were offered and relevant to her teaching assignment in Social Studies at EHS during the 2010-2011 school year. She missed two sessions at the beginning of the school year because she was hired after those sessions were held by EHS.

(B) In December 2010, Stonerock collaborated with other social studies teachers at EHS to create a pacing guide for the world history class. She reviewed the results of the first quarter Benchmark and Fortnightly assessments, the applicable state standards, and the tests and quizzes administered to the students. Thereafter, Stonerock helped to review the curriculum that was required to be covered for the school year and created the pacing guide. Stonerock uses the CPS Clickers in her history classes. She received informal training on the CPS Clickers system and Fortnightly Assessments from instructional coaches and other teachers in the social science department. She received approximately six hours of

training on the CPS Clickers from the instructional coach for technology implementation. Stonerock also uses Cornell Interactive Note Taking s as an AVID strategy in her classroom.

(C) Based on Findings 16 – 21, 33(A) – (E), and 34(A) – (B) above, respondent Stonerock has special training and experience to teach social science in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess. Stonerock attended a majority of the professional development sessions that were relevant to her assignment and provided evidence of her experience.

35. (A) Respondent Michael Bernard is a biology teacher and instructional coach at EHS. He has a seniority date of October 6, 2009, and possesses a preliminary specialized credential in biological science. He also has EL and SDAIE certifications. He teaches four periods of biology and serves as an instructional coach in English Learners (EL) for two periods.

(B) In October 2010, Bernard received training from the District to be an EL instructional coach. In March 2011, at the behest of the District and his high school, he attended the two-day conference of the California Association for Bilingual Education where he received additional training to be an EL instructional coach. Bernard received training to be an EL instructional coach so that he could provide EL training to other teachers and help implement educational goals of the SIG program at EHS.

(C) During the 2010-2011 school year, Bernard received professional development and training from other instructional coaches at EHS in SDAIE strategies, technology implementation of the CPS Clickers and Document Cameras, interactive note taking, inquiry method, Socratic Seminars, special education strategies, and literacy support. In addition, Bernard himself provided instructional coaching in EL to teachers at EHS during which he helped the teachers to conduct instructional planning for EL pupils and encouraged them to use SDAIE strategies, including vocabulary building. In general, Bernard spent one to 10 hours providing instructional coaching in EL to individual teachers as well as observing their teaching in the classroom. On a twice weekly basis, Bernard meets with other instructional coaches in AVID, EL, special education, math, and literacy support for approximately one hour to review data, teaching strategies, and technology.

(D) During the 2010-2011 school year, Bernard attended the professional development for programs, technology, data analysis, Fortnightly Assessments, Document Cameras, and interactive note taking on August 4 and 5, 2010; at the CPS Clickers training on September 8, 2010; on Fortnightly Assessment training on September 22, 2010; on Benchmark examinations on October 13, 2010; at the SIG update on October 27, 2010; on AVID Benchmark data review and Miramonte test taking strategies training on November 17, 2010; at the Benchmark Debrief on January 19, 2011; for training on the CPS Clickers on February 2, 2011; on APEX on March 3, 2011; and at the Data Debrief on March 30, 2011.

(E) Bernard did not attend the professional development for Benchmark Debriefs on November 3, 2010; the CLUB Mentor informational meeting on February 3, 2011; and the Curriculum, Assessment, and Pedagogy workshops on February 16, 2011.

(F) The District further determined that the social studies pacing guide collaboration on November 10 and December 8, 2010; the Algebra collaboration on December 8, 2010; the English CWT Debriefs on January 12 and 26, 2011; and the graphing calculator workshop on January 26, 2010, were not applicable to Bernard's assignments.

36. (A) Based on Findings 35(A) – (F) above and the District's Summary of Professional Development Dates, Bernard attended 11 of the 14 (79 percent) professional development or training sessions that were offered and relevant to his assignments in teaching biology and serving as an EL instructional coach at EHS during the 2010-2011 school year.

(B) Based on Findings 16 – 21, 35(A) – (F), and 36(A) above, respondent Bernard has special training and experience to teach Biology in the collaborative and assessment and data-driven course of study at EHS which other certificated employees or respondents with more seniority do not possess. Bernard attended a majority of the professional development sessions relevant to his assignments and provided evidence of his experience. His training and experience as an instructional coach were significant and would be needed to continue the intervention strategies implemented at EHS.

Other EHS Teachers

37. (A) Juan Vazquez is a Spanish teacher at EHS. He has a seniority date of August 2, 2010, and possesses a clear single subject credential in Spanish. He also has EL and SDAIE certifications. Vazquez was timely served with a preliminary layoff notice. The District apparently served an Accusation upon Vazquez who then did not file a Notice of Defense. Nevertheless, Vazquez was listed among the skipped teachers who were represented at the hearing by the staff counsel of the California Teachers Association.

(B) It was not established that, during the 2010-2011 school year, Vazquez received any training or professional development from any instructional coaches at EHS.

(C) Vazquez attended the professional development training on August 4 and 5, 2010; the Fortnightly Assessment training on September 22, 2010; the Benchmark professional development training on October 13, 2010; the staff meeting on November 17, 2010, when training was provided by UCLA on the Miramonte method of test taking strategies; the introduction to Socratic Seminars training on February 16, 2011; and the training on data analysis and standards on March 30, 2011.

(D) Vazquez did not attend the training on the use of the CPS Clickers on September 8, 2010; the Algebra collaboration training on December 8, 2010; the English

classroom walk-through debriefing on January 12 and 26, 2011; the Benchmark Debrief training on January 19, 2011; the graphing calculator workshop on January 26, 2011; the Club Mentor informational meeting on February 3, 2011; the APEX training on February 16, 2011;

(E) It was not established that Vazquez attended the staff meeting on October 27, 2010, during which information and updated information was provided on SIG; the professional development day on November 3, 2010, when training and/or practice was provided on the Clickers; the training on Social Studies pacing guide and collaboration on November 10 and December 8, 2010; or the CPS Clicker training on February 2, 2011.

(F) On March 3, 2011, an APEX account was created for teachers in the foreign language department. However, it was not established that Vazquez participated in any training on APEX or used APEX to access the Spanish courses for students.

38. Based on Findings 37(A) – (F) above, respondent Vazquez attended seven of the 14 (50 percent) professional development or training sessions that were offered and relevant to his teaching assignment in Spanish at EHS during the 2010-2011 school year. Vazquez did not testify and no evidence was presented regarding his experience as a teacher at EHS or any other school. For example, no evidence was presented regarding any experience with Fortnightly Assessments, analysis of assessment data, lesson planning, use of new technologies, and collaborative efforts to modify tests and his teaching. As such it was not established that respondent Vazquez has special training and experience to teach Spanish in the collaborative and assessment and data-driven course of study at EHS. Vazquez may not be skipped to teach Spanish at EHS pursuant to Education Code section 44955, subdivision (d).

39. (A) Respondent Stella Konisek is a social science teacher at EHS and teaches five periods of psychology. Her seniority date is August 6, 2007. She possesses a clear single subject credential in social science with a CLAD emphasis.

(B) During the 2010-2011 school year, Konisek received professional development and training from instructional coaches at EHS in special education, interactive note-taking, Socratic seminar, and special education strategies.

(C) Konisek attended the professional development on August 4, 2010, where she received program training in AVID, EL, and three other subject matter areas as well as technology training in Powerschools, CPS Clickers, and Document cameras; at the staff meeting on October 27, 2010, when information was provided on SIG; at the staff meeting on November 17, 2010, when AVID Benchmark data was discussed and training was provided on the Miramonte test taking strategies;

(D) Konisek did not attend the professional development on August 5, 2010; the CPS Clickers training on September 8, 2010; the Fortnightly Assessment training on September 22, 2010; the Benchmark professional development on October 13, 2010; the

professional development on November 3, 2010, when classroom observations were discussed and Clickers training was provided; the Benchmark Debriefing on January 19, 2011; the Club Mentor informational meeting on February 3, 2011, because she was ill; or the Data Debrief training on data analysis and standards on March 30, 2010.

(E) In addition, Konisek did not attend the professional development on social studies pacing guide collaboration on November 10 and December 8, 2010; the Algebra collaboration training on December 8, 2010; the English CWT Debriefs on January 12 and 26, 2011; the graphing calculator workshop on January 26, 2011; and the CPS Clickers training on February 2, 2011. The District has deemed these professional development trainings as not applicable to Konisek's teaching assignment or position.

40. Based on Findings 39(A) – (E) above and the District's Summary of Professional Development Dates, Konisek attended only five of the 13 (38 percent) professional development or training sessions that were offered and relevant to her teaching assignment in social science at EHS during the 2010-2011 school year. In addition, no evidence was presented with respect to her experience. For example, no evidence was presented regarding Konisek's experience dealing with Fortnightly Assessments, analysis of assessment data, lesson planning, use of new technologies, and collaborative efforts to modify tests and her teaching. As such, it was not established that respondent Konisek has special training and experience to teach social science in the collaborative and assessment and data-driven course of study at EHS. Respondent Konisek may not be skipped to teach social science at EHS pursuant to Education Code section 44955, subdivision (d).

41. (A) Respondent Jada Jackson is a physical education teacher at EHS where she teaches five periods of physical education. Her seniority date is January 12, 2009. She possesses preliminary single subject credentials in physical education and health.

(B) During the 2010-2011 school year, Jackson received professional development and training from instructional coaches at EHS in special education and special education strategies.

(C) Jackson attended the professional development on August 4 and 5, 2010, where she received training in Powerschools, CPS Clickers, Document Cameras, data analysis, Fortnightly Assessments, and interactive note-taking; on Benchmark review on October 13, 2010; at the SIG update on October 27, 2010; at the staff meeting on November 17, 2010, where she received training on AVID Benchmark data and Miramonte test taking strategies; on Benchmark Debriefing on January 19, 2011; on APEX curriculum training on March 3, 2011; and at the Data Debrief on March 30, 2010.

(D) Jackson did not attend the professional development and Benchmark Debrief on November 3, 2010; the Club Mentor informational meeting on February 3, 2011; and the faculty meeting on February 16, 2011, where she could have received training in APEX, testing taking strategies, or Socratic Seminars.

(E) In addition, Jackson did not attend the CPS Clickers training on September 8, 2010; Fortnightly Assessment training on September 22, 2010; the social studies pacing guide collaboration on November 10 and December 8, 2010; Algebra collaboration on December 8, 2010; English CWT Debriefs on January 12 and 26, 2011; the graphing calculator workshop on January 26, 2011; or the CPS Clickers training on February 2, 2011. The District has deemed these professional development sessions at EHS as inapplicable to Jackson's assignment or position as a physical education teacher.

42. Based on Findings 41(A) – (E) above and the District's Summary of Professional Development Dates, Jackson attended eight of the 11 (73 percent) professional development or training sessions that were offered and relevant to her teaching assignment in physical education at EHS during the 2010-2011 school year. However, no evidence was presented regarding her experience as a teacher at EHS or any other school. For example, no evidence was presented regarding Jackson's experience with Fortnightly Assessments, analysis of assessment data, lesson planning, use of new technologies, and collaborative efforts to modify tests and his teaching. Accordingly, it was not established that Jackson has special training and experience to teach physical education in the collaborative and assessment and data-driven course of study at EHS. Respondent Jackson may not be skipped to teach physical education at EHS pursuant to Education Code section 44955, subdivision (d).

43. (A) Morgan Harman is a certificated employee and an intern teacher at EHS. She possesses an intern credential in English and teaches five periods of English 12. Her seniority date is November 1, 2010.

(B) During the 2010-2011 school year, Harman received professional development and training from instructional coaches at EHS in AVID, interactive note taking, inquiry method, and Socratic Seminar, literacy support, EL, special education and special education strategies, and SDAIE strategies.

(C) Harman attended the SIG update meeting on October 27, 2010; the staff meeting on November 17, 2010, where she received training in AVID Benchmark data and the Miramonte test taking strategies; the English classroom walk-through debriefs on January 12 and 26, 2011; the Benchmark Debrief meeting on analysis and standards on January 19, 2011; the CPS Clickers training on February 2, 2011; the Club Mentor informational meeting on February 3, 2011; the curriculum, assessment, and pedagogy workshop on February 16, 2011, where she participated in the Socratic Seminars; and the APEX curriculum training on March 3, 2011.

(D) Harman did not attend the Benchmark professional development on October 13, 2010; the Benchmark Debriefs on November 3, 2010; and the Data Debrief professional development on March 30, 2011.

(E) In addition, because she had not been hired by the District until November 1, 2010, Harman was not able to attend the professional development training on August 4

and 5, 2010; CPS Clickers training on September 8, 2010; and the Fortnightly Assessment training on September 22, 010.

44. Based on Findings 43(A) – (E) above and the District’s Summary of Professional Development Dates, Harman attended eight of the 15 (53 percent) professional development or training sessions that were offered and relevant to her teaching assignment in English at EHS during the 2010-2011 school year. However, no evidence was presented regarding her experience as a teacher at EHS or any other school. For example, no evidence was presented regarding Harman’s experience with Fortnightly Assessments, analysis of assessment data, lesson planning, use of new technologies, and collaborative efforts to modify tests and her teaching. Accordingly, it was not established that Harman has special training and experience to teach English in the collaborative and data-driven course of study at EHS. Respondent Harman may not be skipped to teach English at EHS pursuant to Education Code section 44955, subdivision (d).

Littlerock High School

45. (A) LHS is located in the eastern section of the District’s attendance area. Due to its isolated location, many pupils have to take buses to and from school. Consequently, the pupils leave school right after classes are finished and student participation is low for athletics and other after school activities. LHS serves approximately 1,800 pupils. Approximately 66 percent of the pupils are Hispanic, 20 percent receive special education services, and a large number of the pupils come from low-income families. EL and special education pupils are among the lowest performing students on standardized tests. While African American students have demonstrated growth in math proficiency, other students’ performances have been low in math and literacy. LHS has offered Algebra and literacy support and preparation classes for the high school exit examination to help those pupils who did not demonstrate grade-level math skills or read or write at grade level. The school has provided one-to-one tutoring to increase math and literacy skills, AVID programming, as well as Cornell Interactive Note Taking and critical thinking and writing skills classes. Special education pupils have been given the assistance of instructional aides.

(B) Before the approval of and as set forth in the District’s SIG application, teachers at LHS were highly qualified and comprised of an almost equal number of new and experienced certificated employees. In prior school years, LHS teachers had all of the required instructional materials, textbooks, technology, and supplemental programs, such as Read 180, but did not use these materials and textbooks in the best possible manner or use core materials in their instructional programs. The teachers reviewed benchmark tests with their colleagues and modified pacing guides but did not conduct formative assessments or engage in inquiry to determine whether changes in instruction actually improved student understanding. Time and structures were provided for weekly collaborative meetings but teachers did not timely analyze or frequently use results from assessments in their meetings or discuss implementation of instructional programs and lesson plans. Moreover, the teachers were not trained on research-based practices and instruction, did not take advantage

of available training, did not obtain or use data to improve instruction or student understanding, and did not engage in frequent assessments to check on student understanding. The District applied for SIG funding to improve student performance and teaching at LHS and to elevate the high school from program improvement status.

(C) In January 2009, the District started the intervention process and replaced the principal and other administrators at LHS. These new administrators then tried to improve student achievement on standardized tests by using data to analyze and change instructional methods, motivating students, creating a positive school culture, and empowering students, staff, and the community to become invested in the school. Hiring and retaining a cohesive, highly-qualified teaching staff were problematic.

(D) With the receipt of SIG funding in the current 2010-2011 school year and in accordance with the SIG application, the District has sought to transform LHS by, in part, implementing educational strategies that follow the instructional program and track student achievement, modifying pacing guides to include time for re-teaching to ensure that students meet benchmarks, increasing time and support for collaboration and follow-up, increasing learning by providing on-line learning opportunities, providing incentives for retaining teachers, and establishing the school as a community center by holding an open house and parent informational meeting.

(E) In the area of professional development, the District applied for SIG funding in order to improve the training opportunities for teachers and facilitate implementation of the training into the classroom. With SIG funding, the District has sought to provide increased collaborative and in-depth professional development that relies on evidence from implementation of educational strategies, emphasizes subject-matter specific classroom walk-throughs, relies on additional support from instructional coaches to ensure implementation of training into the classroom, creates opportunities for collaboration, and uses benchmark data and classroom walk-throughs to measure changes in instructional practices. On August 4 – 5, 2010, after receiving the SIG funds for LHS, the District provided small group training to LHS teachers on Smart Goals, Inquiry and Cornell Review, Socratic Seminar, Pulling and Analyzing Data, instructional coaching, and lesson planning. During the remainder of the school year, the District provided professional development on different subjects, such as Cultural Proficiency, Benchmark Data Analysis, Power Lessons, Circle Maps, Promethean Boards, Test Thinking Strategies, Power Lesson Collaboration, classroom management, and APEX technology. The list, dates, agendas, and teacher sign-in sheets for these professional development sessions at LHS are contained in the District's Exhibit 24.

46. The first-year vice principal at LHS testified that the Transformation Model has been put in place at the high school by changing instructional strategies and increasing professional development to emphasize data analysis and collaborative lesson study. With SIG funding, LHS has been able to provide teachers with training in such areas or technologies as Socratic Method, Thinking Maps, Promethean Boards, Lesson Study, and APEX, which the vice principal indicated is more in-depth and unique. SIG funding has

allowed LHS to hold an open house and informational parent meetings and middle school outreach program to develop relations between the high school and the community. The vice principal testified that the training was “front loaded,” meaning that much of it has been provided to LHS teachers in the first year of the SIG funding. While professional development continues and is ongoing at LHS, the vice principal opined that progress would be lost if current teachers were to be laid off, for it would take a year for new teachers to be trained in the new educational strategies and technologies.

47. Based on Findings 16 – 19 and 45 – 46 above, the District demonstrated that the educational interventions of collaboration, standards and research-based curriculum and instruction, technological innovations, and community outreach that were implemented at LHS constitutes a course of study and that it has a specific need for personnel to teach this course of study at LHS within the meaning of Education Code section 44955, subdivision (d).

Little Rock High School Teachers

48. (A) Respondent David Cooper is a health education teacher and teaches five periods of health classes at LHS. He has seniority date of August 8, 2006, and holds a clear single subject credential in health with EL and SDAIE certifications.

(B) On August 4 and 5, 2010, which were furlough days, Cooper attended the “Kick-Off” Professional development at LHS. On the first day, he attended the training sessions on Smart Goals, AVID collaboration, and Socratic Seminars. On the second day, Cooper attended the training sessions on Pulling Data, Analyzing Data, the small group on data analysis and planning, Cornell Notes and Inquiry, and Reading and Organizing Data. On August 4 and 5, 2010, Cooper attended a total of eight sessions of professional development.

(C) Subsequently, Cooper attended the staff meeting on November 17, 2010, where WASC accreditation process was discussed; the LHS Open House for the community on November 18, 2010; the faculty meeting on February 16, 2011, where goals for WASC accreditation was discussed; the Parent Information Night on February 23, 2011; the faculty meeting on March 16, 2011, when WASC standards were discussed; and the Promethean ActivBoard training on March 26, 2011; and APEX training on April 27, 2011.

(D) Cooper was absent or did not attend the two-day professional development on cultural proficiency on September 22 and 29, 2010; the cultural, data, and Power Lesson training on October 6, 2010; the cultural, proficiency, data, and Power Lessons training on October 13, 2010; the Circle Maps professional development on November 3, 2010; the December 15, 2010 faculty meeting where goals for WASC accreditation were discussed; the SPA Power Lesson planning on January 12, 2011; the UCLA Miramonte test taking strategy training on February 23, 2011; the professional development on Thinking Maps, Inquiry and Socratic Methods, Language Acquisition, classroom management, Promethean boards, and test thinking on March 30, 2011;

(E) The District determined that the following professional development sessions were not applicable to Cooper's assignment as a health education teacher: math collaboration on August 4, 2010; English and EL collaboration on August 5, 2010; English Calibration on December 8, 2010; Power Lesson collaboration on March 2 and 4, 2011; the English Calibration Grading session on March 8, 2011; and the break-out sessions on Inquiry and Socratic Seminar, classroom management, and language acquisition on March 30, 2011.

49. Based on Findings 48(A) – (E) above and the District's Summary of Professional Development Dates (Exh. 24-A), Cooper attended 15 of the 25 (60 percent) professional development or training sessions that were offered and relevant to his teaching assignment in health at LHS during the 2010-2011 school year. However, eight of those 15 professional development sessions occurred on August 4 and 5, 2010. Thereafter, it was not established that Cooper attended any substantive professional development sessions. Three of the remaining five sessions were faculty meetings where the WASC accreditation process, standards, and goals were discussed. As the LHS vice-principal testified, the WASC accreditation process is not unique to LHS alone. Other high schools in the District conducted faculty meetings to discuss WASC accreditation. The other two sessions that Cooper attended were the Open House and Parent Information Night, which were funded by SIG and organized for the purpose of community outreach. No evidence was presented that any professional development actually occurred at either the faculty meetings for discussion of WASC or the two community outreach events. In addition, no evidence was presented with respect to Cooper's experience as a teacher at LHS or any other school. For example, no evidence was presented regarding Cooper's experience with Benchmark data analysis, collaboration, Power Lessons, or new technologies. Accordingly, it was not established that respondent Cooper has special training and experience to teach health in the collaborative planning course of study at LHS. Cooper may not be skipped to teach health at LHS pursuant to Education Code section 44955, subdivision (d).

50. (A) Respondent Cesar Ayllon is an English teacher at LHS. He has a preliminary single subject credential in English and certifications in EL and SDAIE. His seniority date is September 13, 2010. Ayllon teaches five periods of English.

(B) Because he was not hired until September 13, 2010, Ayllon was unable to attend the two-day "Kick-Off" professional development on August 4 and 5, 2010, when training was provided on AVID collaboration, Socratic Seminar, data analysis, and other subjects. Ayllon was not able to attend approximately ten different training sessions on these two days in August 2010.

(C) After September 13, 2010, and during the 2010-2011 school year, Ayllon attended the cultural proficiency training on September 22 and 29, 2010; the Pre-Furlough Professional Development on culture, data, and Power Lesson on October 6, 2010; the training on cultural proficiency, Benchmark Data Analysis Protocol, Smart goals, and Power Lessons on October 13, 2010; the Circle Maps training on November 3, 2010; the November 17, 2010 staff meeting regarding the WASC accreditation; the SIG Open House on November 18, 2010; the English Calibration Grading training on December 8, 2010; the

WASC faculty meeting on December 15, 2010; the Benchmark Data Analysis Protocol, Smart goals, and Power Lessons planning on January 12, 2011; the WASC faculty meeting on February 16, 2011; the UCLA-Miramonte test taking strategy training on February 23, 2011; the Post-Power Lessons collaboration on March 2, 2011; the English Calibration Grading session on March 8, 2011; the WASC-faculty meeting on March 16, 2011; Promethean board training on March 26, 2011; the all-day professional development on March 30, 2011, that included training on Thinking Maps, Inquiry and Socratic Seminar, language acquisition, classroom management, CST and test taking strategies, and Promethean boards; and APEX training on April 27, 2011.

(D) Ayllon did not attend the SIG Parent Information Night on February 23, 2011, and the Post-Power Lessons collaboration on March 4, 2011.

51. Based on Findings 50(A) – (D) above and the District’s Summary of Professional Development Dates, Ayllon attended 22 of the 34 (65 percent) professional development or training sessions that were offered and relevant to his teaching assignment in English at LHS during the 2010-2011 school year. Ayllon missed the first ten professional development sessions in August 2010 because he was not working for the District yet but he did attend 22 of 24 sessions thereafter. On the other hand, no evidence was presented regarding Ayllon’s experience as a teacher at LHS or any other school. For example, no evidence was presented regarding Ayllon’s experience with Benchmark data analysis, collaboration, Power Lessons, or new technologies. Thus, it was not established that respondent Ayllon has both special training and experience to teach English in the collaborative planning course of study at LHS. Ayllon may not be skipped to teach English at LHS pursuant to Education Code section 44955, subdivision (d).

52. (A) Respondent Rachel Young is an English teacher at LHS. She possesses a preliminary single subject credential in English and EL and SDAIE certifications. Her date of first paid service with the District as a probationary certificated employee is November 29, 2010. Prior to that, Young completed her student teaching at the District’s Highland High School. At LHS, Young teaches five periods of English.

(B) Due to her late hiring date in the middle of the fall 2010 semester, Young did not attend the first 17 professional development sessions offered to teachers at LHS during the 2010-2011 school year. Thereafter, Young attended the English Calibration Grading training on December 8, 2010; the faculty meeting on WASC on December 15, 2010; the training on Benchmark Data Analysis Protocol, SMART goals, and Power Lessons on January 12, 2011; the faculty meeting on WASC on February 16, 2011; the UCLA Test Thinking Strategy training on February 23, 2011; the SIG Parent Information Night on February 23, 2011; the Post Power Lesson Collaboration on March 2, 2011; the English Calibration Grading session on March 8, 2011; the Promethean Board training on March 26, 2011; the professional development on Thinking Maps, Inquiry and Socratic Method, language acquisition, Promethean boards, and test thinking on March 30, 2011; and the APEX training on April 27, 2011.

(C) After beginning her employment with the District, Young did not attend the following professional development sessions: the Post Power Lesson Collaboration on March 4, 2011, and the faculty meeting regarding WASC on March 16, 2011. She missed one of these sessions because she had to undergo surgery. In addition, the District has determined that the breakout session on classroom management on March 30, 2011, was not applicable to Young's assignment as an English teacher.

53. (A) Based on Findings 52(A) – (C) above and the District's Summary of Professional Development Dates, Young attended 14 of the 33 (42 percent) professional development or training sessions that were offered and relevant to her teaching assignment in English at LHS during the 2010-2011 school year. As a matter of mitigation, Young missed the first 17 professional development sessions because she was not hired until November 29, 2010.

(B) During the SIG Parent Information Night on February 23, 2011, Young met with the parents of approximately 19 students and discussed their students' grades, home lives, and academic strengths and weaknesses. She calls or contacts parents of students about five times weekly. Although she did not attend the March 4, 2011 professional development on Post Power Lesson Collaboration, Young participated on a team of teachers at LHS who discussed and created Power Lessons. She collaborates with other teachers at LHS on the subject matter, lesson planning, and the content of their courses on a cross-curricular basis. In departmental meetings, she has reviewed and discussed data, results, and questions on questions in collaboration with her colleagues. She then created a Power Lesson on concepts that her pupils found difficult or did not comprehend. As such, Young has incorporated Power Lessons into her teaching methods. She has also used the UCLA test thinking strategies in preparing her pupils for Benchmark assessments and state-wide tests. She has not used the training or information on Thinking Maps in her teaching. Young struggled initially to become proficient as a teacher and member of the faculty at LHS because she started teaching there in late November 2010 and assumed stewardship of pupils who had been taught by a long-term substitute teacher. As a new teacher, Young found a high level of collaboration among her colleagues in the English department at LHS and across different curriculum. Young has found the training that she and other teachers have received and collaborative environment at LHS to be important factors for meeting goals under SIG.

(C) Based on Findings 16 – 19, 45 – 47, 52(A) – (C), and 53(A) – (B) above, respondent Young has special training and experience to teach English in the collaborative planning course of study at LHS which other certificated employees or respondents with more seniority do not possess.

54. (A) Jonathan Fitch is an intern teacher in English at LHS. He possesses an intern teaching credential in English and has EL and SDAIE certifications. He teaches five periods of English. He began teaching at LHS on September 22, 2010. He was a substitute teacher for the District during the prior school year. Fitch is completing the clinical practice

requirement for his teaching credential at National University and expects to receive his preliminary single subject credential in English in July 2011.

(B) Because he was not hired to teach at LHS until September 22, 2010, Fitch was not able to attend the two-day “Kick-Off” professional development program offered on August 4 and 5, 2010, when training was provided to teachers on AVID collaboration, Socratic Seminar, data analysis, Cornell note taking, and other subjects. As such, Fitch did not have the opportunity to attend the ten different training sessions on these two days.

(C) Thereafter, Fitch attended the cultural proficiency training on September 22 and 29, 2010; the Pre-Furlough Professional Development on culture proficiency, data analysis, and Power Lessons on October 6, 2010; the training on cultural proficiency, Benchmark Data Analysis Protocol, Smart goals, and Power Lessons on October 13, 2010; the Circle Maps training on November 3, 2010; the November 17, 2010 staff meeting regarding the WASC accreditation; the SIG Open House on November 18, 2010; the faculty meeting on WASC on December 15, 2010; the training on Benchmark Data Analysis Protocol, SMART goals, and Power Lessons on January 12, 2011; the faculty meeting on WASC on February 16, 2011; the UCLA Test Thinking Strategy training on February 23, 2011; the SIG Parent Information Night on February 23, 2011; the Post Power Lesson Collaboration trainings on March 2 and 4, 2011; the English Calibration Grading session on March 8, 2011; the faculty meeting on WASC on March 16, 2011; the Promethean board training on March 26, 2011; the professional development on Thinking Maps, Inquiry and Socratic Method, language acquisition, Promethean boards, and test thinking on March 30, 2011; and the APEX training on April 27, 2011. After being hired, Fitch missed only one professional development session, the English Calibration Grading training on December 8, 2010, due to the birth of his daughter.

55. (A) Based on Findings 54(A) – (C) above and the District’s Summary of Professional Development Dates, Fitch attended 23 of the 34 (68 percent) professional development or training sessions that were offered and relevant to his teaching assignment in English at LHS during the 2010-2011 school year. Fitch missed the first 10 professional development offerings on the two furlough days in August 2010 because he had not yet been by the District.

(B) Respondent Fitch observed growth in the LHS students’ results in the Benchmark assessments after the first quarter of the 2010-2011 school year which he attributed to the training that teachers received, including Thinking Maps. He integrated the visual tools of Thinking Maps into his teaching to help students visualize and better understand the subject matter content of his lessons. Fitch is involved in the community outreach of LHS and calls the parents to discuss their pupils’ progress. He encourages parents to come to the school and has had parents come and observe his classroom. In addition, UCLA educational coaches and school administrators have observed his classroom teaching and the responses of his pupils and provided him with feedback and suggestions to improve his teaching and the learning of his pupils. Fitch meets with fellow teachers in the English department every other Wednesday when they collaborate and discuss teaching

methods. He indicated that teachers at LHS use their free time to collaborate with one another.

(C) Based on Findings 16 – 19, 45 – 47, 54(A) – (C), and 55(A) – (B) above, respondent Fitch has special training and experience to teach English in the collaborative planning course of study at LHS which other certificated employees or respondents with more seniority do not possess.

56. It was not necessarily established that, during the 2010-2011 school year, respondents Cooper, Ayllon, Young, and Fitch received additional training from any instructional coaches at LHS. The District only demonstrated with documentary evidence that the LHS instructional coaches had meetings among themselves.

Other Respondents

57. (A) Respondent Natalie Brooks is a physical education teacher at Antelope Valley High School (AVHS).³ She holds a preliminary physical education credential and EL and SDAIE certifications. She teaches five periods of physical education

(B) At AVHS, Brooks has attended professional development that took place on furlough days. She participated in break-out sessions on AVID and SDAIE strategies, Thinking Maps, and Informed. She has used Thinking Maps and SDAIE strategies in the team handball tournament for her physical education class by assigning teams to learn about and present information on different countries. On one occasion in March 2010, Brooks engaged in a collaborative lesson planning with the social studies department when she participated in reviews of Benchmark data, problems and questions, and standards and helped to create SMART goals. She has also collaborated with health teachers and received instruction from the EL instructional coach.

(C) Brooks has not received professional development in Test Thinking strategies or Power Lessons. She has not received any training to use new technologies such as Promethean Boards, CPS Clickers, or APEX.

(D) Based on Findings 57 (A) – (C) above, it was not established that respondent Brooks has special training and experience to teach physical education in the collaborative and assessment and data-driven course of study at EHS or the collaborative planning course of study at LHS.

58. (A) Respondent Kristine Parsons is a social science teacher at AVHS. She possesses a preliminary single subject credential in social science and certifications in EL

³ Antelope Valley High School has similar student demographics and achievement levels as EHS and LHS. The District has applied for SIG funding for Antelope Valley High School for the next school year.

and SDAIE. Her seniority date is October 3, 2006. She teaches four periods of civics and one period of U.S. History at AVHS. Prior to coming to AVHS, Parsons taught at EHS for the 2007-2008 and 2008-2009 school years. She has found the student population at AVHS to be as diverse and challenging to teach as EHS.

(B) At AVHS, Parsons has participated in professional development sessions regarding EL, cultural diversity, special education, and Benchmark debriefing. She received training in Thinking Maps as a substitute teacher and as a newly hired teacher with the District and has used the “bubble board” and the visual and organizational concepts of Thinking Maps in her classroom teaching. She has also been trained in and used Cornell Notes and AVID strategies. Parsons has analyzed data from assessments and used the data to create new goals and to modify her teaching. She has collaborated and shared information with EL and AVID teachers and coaches. She has participated in community outreach forums to discuss intervention models for improving student performance at AVHS.

(C) Parsons has not received professional development in Fortnightly Assessments, Test Thinking strategies, or Power Lessons. She has not received any training to use new technologies such as Promethean Boards, APEX, and Document Cameras, but knows how to use the CPS Clickers system in the classroom. Parsons learned to use CPS Clickers while she was graduate teaching assistant at San Diego State University. She does not use CPS Clickers at AVHS because the high school does not have the system.

59. (A) Respondent Teresa Kindermann is a social science teacher at AVHS. She possesses a clear single subject credential in social science and a CLAD. Her seniority date is August 6, 2007. She has four sections during which she is an instructional coach and teaches one section of U.S. history.

(B) Kindermann has attended a number of professional development sessions at AVHS. On the furlough days of August 4 and 5, 2010, she received training on the Inform computer program to access and analyze data, set individual student SMART goals, and guide instruction; literacy and math support; cultural proficiency; lesson planning; and classroom management. She has received training from instructional coaches in using data to improve instruction. On three dates in September and October 2010, Kindermann attended workshops on collaborative inquiry that involved data collection, teacher intervention, and Benchmark debriefing as well as training on Inform and Powerschool. On September 1, 2010, she attended AVID training and presented a workshop on using Cornell Note Taking. At a October 6, 2010 faculty meeting, Kindermann attended break-out sessions on culturally relevant instruction and teaching strategies. On the October 13, 2010 furlough day training, she received professional development on Socratic Seminars, Inform, Benchmark Debriefs, and SMART goals. At a December 1, 2010 faculty meeting, Kindermann helped facilitate and lead a professional development session on literacy intervention that involved a discussion of data from the high school exit examination, faculty collaboration, and school-wide writing prompts. On January 27, 2011, she attended professional development on Thinking Maps. On March 30, 2011, she attended a Benchmark professional development that reviewed interpretation of data from Benchmark

examinations, revision of SMART goals using Benchmark data, debriefing protocol, and training on Thinking Maps. In addition, Kindermann participated in community outreach meetings that considered school intervention models.

(C) Kindermann has not received professional development in Fortnightly Assessments, Power Lessons, or the Miramonte Method of Test Thinking. She has not received any training to use new technologies such as Promethean Boards, CPS Clickers, APEX, and Document Cameras. In her part-time job in the evenings, Kindermann uses an on-line program with microphone and camera to teach history and sociology courses.

60. (A) Respondent Kimberly Fields is a social science teacher at Palmdale High School. She now holds a clear single subject credential in social science after paying the fee. She also has EL and SDAIE certifications. Her seniority date is August 8, 2006. She teaches five sections of world history.

(B) While teaching at Palmdale High School, Fields has attended professional development sessions. She received training in Cornell Note Taking and Socratic Seminars. She received training on Thinking Maps during BTSA meetings. In early 2010, she attended a two-day session on differentiated instruction at the Los Angeles County Office of Education. Fields has used these various methodologies in her classroom instruction. Following Benchmark examinations held three times yearly, she has participated in collaborative departmental debriefs of world history during which teachers reviewed questions, identified standards, analyzed data and student results, reviewed best practices, and taught the subject matter again. Last summer, she participated in a District committee to prepare an updated Benchmark Pacing Guide for world history that set a schedule for Benchmark examinations for the current school year. Fields has also participated in parent information meetings and Back-to-School nights.

(C) Fields has not received professional development in Fortnightly Assessments, Test Thinking strategies, or Power Lessons. She has not undergone any training to use new technologies such as Promethean Boards, APEX, and Document Cameras. She has received informal training from math teachers in use of the Promethean Boards but, instead, uses Power Point in her classroom to present quizzes and to check whether her pupils understand reading assignments. With history teachers, Fields received training in the use of CPS Clickers but she does not use Clickers in her classroom. She did not provide any details of her CPS Clickers training.

61. (A) Based on Findings 58 – 60 above, it was not established that respondents Parsons, Kindermann, and Fields have special training to teach social science in the collaborative and assessment and data-driven course of study at EHS or the collaborative planning course of study at LHS. These three respondents have experience in collaboration, data analysis, assessments, and lesson planning but, without the extensive special training in educational strategies and technologies that has been afforded teachers at EHS and LHS over the current school year, these respondents would not be able to teach the courses of study in the reformed environments at these two high schools. .

(B) However, both Parsons and Fields have more seniority with the District than respondents and fellow social science teachers Gorman and Konisek who are not eligible to be skipped to teach social science at EHS under Education Code section 44955, subdivision (d), as set forth in Findings 23 – 24 and 39 – 40 above. As a result, Gorman and Konisek should be given final layoff notices pursuant to the reduction of social science teachers. According to the seniority list and bumping charts, respondents Parsons and Fields should not be given final layoff notices and must be retained for the ensuing school year.

62. (A) Respondent Chad Shrout is a health teacher at Lancaster High School. He holds a preliminary single subject credential in health and has EL and SDAIE certifications. He has attained a master's degree. His seniority date is August 3, 2006. Shrout teaches five periods of health and coaches the football team at Lancaster High School which has a student demographic similar to those at EHS and LHS.

(B) Shrout has attended professional development sessions at Lancaster High School in cross-cultural education, data analysis, AVID strategies, Socratic Method, and Thinking Maps. He has used Cornell note taking and developed SMART goals in his classroom. He has also implemented Thinking Maps in connection with his instruction on drugs, nutrition, and sexually transmitted diseases in order to help students understand the lessons. He has not utilized Power Lessons or administered Benchmark assessments in his health classes

(C) Shrout has not received professional development in Fortnightly Assessments, Test Thinking, or Power Lessons. He has not received any training to use new technologies such as Promethean Boards, CPS Clickers, or APEX.

63. Based on Finding 62(A) – (C) above, it was not established that respondent Shrout has special training and experience to teach health in the collaborative and assessment and data-driven course of study at EHS or the collaborative planning course of study at LHS. However, Shrout has more seniority with the District than respondent and fellow health teacher Cooper who has been found not qualified to be skipped under Education Code section 44955, subdivision (d), to teach health at LHS, as set forth in Findings 48 and 49 above. As a result, respondent Cooper should be given a final layoff notice pursuant to the reduction of behavioral science or health teachers. Respondent Shrout, on the other hand, may not be given a final layoff notice and should be retained for the ensuing school year.

64. (A) Respondent Daniel Ray Brown is an automotive technology teacher at Highland High School. He teaches five periods of automotive repair. He holds a clear single subject vocational education credential in automotive repair and has a seniority date of January 22, 2001.

(B) Brown is the only automotive repair teacher at Highland High School. He teaches a level one course in fundamentals of automotive repair and a level two course that involves hands-on repair and projects. Many of his students are participate in EL, special education, and deaf or hard-of-hearing programs and will not be attending college. Brown

may be given a final layoff notice pursuant to the reduction of teaching of automotive repair by 1.0 FTE.

65. (A) Respondent Jamie Henderson is an Opportunity teacher at Knight High School. She possesses a clear multiple subject credential in general subjects and has EL and SDAIE certifications. She has attained a master's degree in education. Her seniority date is September 2, 2008.

(B) As an Opportunity teacher, Henderson teaches the core subjects of English, science, math, and history to ninth and tenth grade pupils who have failed classes and need academic support or who have had disciplinary, drug, or legal problems. To teach Opportunity, a teacher must be highly qualified in all four core subjects under the federal No Child Left Behind law. Henderson has always been considered by the District to be highly qualified in English based on her having completed 32 units of English in college. She is now highly qualified in math and science after successfully completing Verification Process for Special Settings (VPSS) courses in math tier I and II and science tier I. For history, she has passed the portion of the qualification test on U.S. history and is waiting for her results on other sections of the test. Assuming that she passes the history qualification test, Henderson is certificated and competent to teach Opportunity and the District has not contested otherwise.

(C) At AVHS, Henderson has attended professional development sessions in EL and literacy strategies, Cornell note-taking, cross-curricular education, writing for the high school exit examination, and collaboration. She also attended District-wide training on using computer software for credit retrieval. With teachers of the English department, she has helped to rewrite the curriculum that had become out-dated.

(D) Henderson has not received professional development in Fortnightly Assessments or Power Lessons. She has not received any training to use new technologies such as Promethean Boards, APEX, and Document Cameras. While she has received training in Thinking Maps and CPS Clickers, Henderson does not use either in her classroom.

66. (A) In this layoff proceeding, the District proposes to have Henderson bumped by either Neil Love or Rochelle Miser. Love is an agriculture teacher and director of activities at AVHS. He possesses a clear single subject credential in agriculture and limited assignment credential in chemistry as well as EL and SDAIE certifications. He teaches three sections of agricultural science and two sections of veterinary science. He also has one section designated for Associated Student Body activities and another section for activities director. Rochelle Miser is also an agriculture teacher at Lancaster High School. She possesses a clear single subject credential in agriculture with certifications in EL and SDAIE. Her seniority date is July 18, 2005. She teaches two sections of earth science, two sections of agricultural biology, and one section of environmental horticulture.

(B) The District has determined that Love is subject to layoff pursuant to the reduction or discontinuance of agriculture teachers by 1.0 FTE and that Miser's preliminary layoff notice should be rescinded. Both are credentialed and competent to displace or to be reassigned to Henderson's Opportunity teacher position. Both Love and Miser are deemed by the District to be highly qualified in science by virtue of their having completed at least 32 college units in science. Neither Love nor Miser is highly qualified in the other core subjects of English, math, or history, but both have up to three years from the date of an assignment to demonstrate that they are subject matter competent and a highly qualified teacher in these three core subjects under the CDE's Subject Matter Verification Process in Special Settings.⁴ Finally, unlike Henderson, who has signed an Assignment Teacher Consent form every school year, consenting to teach Opportunity at Knight High School pursuant to Education Code section 44865, subdivision (g), it was not established that Love or Miser has consented to this assignment yet. Based on the foregoing, Henderson may be bumped from her Opportunity teaching position by either Love or Miser as long as Love or Miser consents to the Opportunity assignment in timely manner.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determinations of issues:

LEGAL CONCLUSIONS

1. Jurisdiction exists for the subject proceedings pursuant to Education Code sections 44949 and 44955, based on Findings 1 – 66 above. All notices, accusations, and other related papers and reports required by these Education Code sections have been provided in timely manner and, as such, the parties have complied with the statutory requirements.

2. Cause exists pursuant to Education Code sections 44949 and 44955 to reduce by 65.00 full-time equivalent positions the concomitant number of certificated employees of the District due to the reduction or discontinuance of particular kinds of services, as set forth in Findings 1 – 12 above. However, after accounting for rescissions of preliminary layoff notices and attrition, the reduction or discontinuance of particular kinds of services has been decreased to 20.0 full-time equivalent positions, as set forth in Finding 15 above. With respect to those respondents whose employment have been found to be terminable by the District and any other certificated employees who received preliminary layoff notices but did not request a hearing, if any, the causes set forth in the Accusations relate solely to the

⁴ On February 1, 2011, the District informed Henderson that, because she was hired into the Opportunity program two years ago for the 2008-2009 school year, this was the third and last year for her to meet the requirements to be a highly qualified teacher in all core subjects.

welfare of the District's schools and pupils within the meaning of Education Code section 44949.

3. Cause does not exist pursuant to Education Code sections 44949 and 44955 to terminate the employment of the following respondents and/or certificated employees: Alma Del Llano, Andrea Fuller, Ashlie Kramer, Bernice Fontanills, Carol Smith, Corey Guilfoos, Daniel Henderson, David Butzke, David Dunstan, David Perry, Denise Schultz, Devon Cooper, Eric Long, Jamie Van Norman, Jessica Centonze-Moll, John Najar, Leann Washington, Marco Reyes, Mark Robinson, Melody Briseno, Michael Dutton, Michael Ybarra, Mitchell Dabo, Patricia O'Keefe, Perleen Smith, Rochelle Miser, Ryan Rivas, Scott Rundblade, Terry O'Connor, Tiffanie Marley, William Holmes, Indira Molina, Latisha Sampson, Martha Alatorre, Monica Gottschalk, Sandra Gordon, Scott Booth and Tameiko Rose, based on Finding 14(A) above.

4. Cause does not exist pursuant to Education Code sections 44949 and 44955 to terminate the employment of the following additional respondents: Anthony Martinez, David Alvarez, Pablo Andrade, Richard Assad, Patricia Beane, Briana Blundell, Jeremiah Brooks, Daniel W. Brown, Mariane Brown, Stephanie Franklin, Nathan Gilmore, Thomas Grady, Jeremiah Griffey, Stacey Hardcastle, Stephanie Herrera, Karin Howard, Sabrina Jobb, Kevin Mahady, Lala Markosian, Robert Marshall, Melonie Morgan, Lia Navas, Colleen Nua, Corinne Reinford, Socorro Reyes, Christopher Saucke, Curt Stephan, Robin Stump, Susan Sztain Edminister, Michelle Teare, John Viverito, Shannon Williams, and Carol Wood, based on Finding 14(B) above.

5. Cause does not exist pursuant to Education Code sections 44949 and 44955 to terminate the employment of respondents Akilah Lyons-Moore, Jill Dabo, Migena Mendez, Alesia Stonerock, Michael Bernard, and Rachel Young or to release certificated employees and interns Donny Galland and Jonathan Fitch in that these respondents and certificated employees may be skipped pursuant to Education Code section 44955, subdivision (d), as set forth in Findings 25 – 26, 27 – 28, 31- 32, 33 – 34, 35 – 36, 52 – 53, 29 – 30, and 54 - 55 above.

6. Cause exists pursuant to Education Code section 44949 and 44955 to terminate the employment of respondents Daniel Gorman, Juan Vazquez, Stella Konisek, Jada Jackson, David Cooper, and Cesar Ayllon, and to release certificated employee and intern Morgan Harman in that it was not established that these respondents have special training and experience necessary to teach the course of study at Eastside High School or Littlerock High School and are not qualified to be skipped pursuant to Education Code section 44955, subdivision (d), based on Findings 23 – 24, 37 – 38, 39 – 40, 41 – 42, 48 – 49, 50 – 51, and 43 - 44 above.

7. Cause does not exist pursuant to Education Code sections 44949 and 44955 to terminate the employment of respondents Kristine Parsons, Kimberly Fields, and Chris Shrout, based on Findings 58 – 59, 60 – 61, and 62 – 63 above.

8. Cause exists pursuant to Education Code sections 44949 and 44955 to terminate the employment of respondents Natalie Brooks, Teresa Kindermann, Daniel Ray Brown, and Jamie Henderson, based on Findings 57, 59, 61(A), 64, and 65 – 66 above.

9. Based on Findings 1 – 66 and Conclusions of Law 1 – 8 above, there is no certificated probationary or permanent employee with less seniority than any one of respondents or the certificated employees who is being retained by the District for the 2011-2012 school year to render services which any one of respondents or certificated employees is certificated and competent to render.

10. Discussion—Under Education Code section 44955, subdivision (d), a school district may deviate from terminating certificated employees in order of seniority and retain junior certificated employees if the school district, first, demonstrates a specific need for personnel to teach a specific course or course of study and, second, establishes that the junior certificated employees that it proposes to retain have special training and experience necessary to teach that course or course of study, or to provide those services, which others with more seniority do not possess. (*Bledsoe v. Biggs Unified School District* (2008) 170 Cal.App. 4th 127, 137-138.)

The District showed by the preponderance of the evidence that it has a specific need for teachers currently assigned to EHS and LHS to stay to teach a specific course of study at the two high schools. A school district is not required to demonstrate its specific need for personnel to teach a specific course or course of study by formal written policies, course or job descriptions, or program requirements and may have special needs for personnel to teach a specific course of study that go beyond base qualifications. (*Bledsoe v. Biggs Unified School District*, Ibid, 170 Cal.App. 4th 138.) Course of study may mean the planned content of a series of classes, courses, subjects, or related activities. (Ed. Code, § 51014.) In *Bledsoe* case, the Court of Appeal found that the school district established a specific need for teachers for a community day school. The interim superintendent had testified that a community day school served a distinct and difficult student population who had been expelled or presented with extreme behaviors. The school district showed that it needed teachers with specialized background, training, and experience to deal appropriately with these community day school students.

In this layoff matter, the District demonstrated that it needs teachers with specialized training and experience in performing frequent assessments, data analysis, and collaboration, and using educational strategies and classroom technologies to implement the educational interventions and strategies under the Transformation Model for the purpose of improving two high schools, EHS and LHS. Both schools have been labeled as program improvement and persistently low achieving schools and have diverse student populations. The District initiated some reforms at the two schools in the year or two before the current school year but applied for and received SIG funding this school year to pay for additional professional development, new classroom technologies, and school activities. Other high schools in the District have provided similar training to its teachers but not to the degree or breadth of the professional development given this year at EHS and LHS.

Over the course of this school year, teachers have become committed to the intervention model instituted at both schools, students have become more committed to academics, and the campus environments at both schools have changed. The District needs the teachers who are assigned to the two high schools to continue to implement its educational reforms so that it can continue to receive the SIG funding to pay for the training, equipment, student learning opportunities, and community activities and fully implement its intervention strategies and reforms. If a community day school that provides educational services to students who have disciplinary and behavioral problems is a course of study, then certainly each of the two high schools in this matter which is striving to educate and improve the academic performance of low performing and minority students under the Transformation Model must be considered a course of study within the meaning of Education Code section 114955, subdivision (d). (See *Bledsoe v. Biggs Unified School District*, Ibid., 170 Cal. App. 4th at 138.)

Certain respondents have contended that, because the District failed to first review and determine whether individual respondents with more seniority have the special training and experience necessary to teach the course of study at EHS or LHS, the District may not skip junior certificated employees at these two high schools and deviate from seniority to terminate certificated employees. In the *Bledsoe* case, the Court of Appeal made clear that it was an error and a violation of due process for a school district to skip junior certificated employees and give preliminary layoff notices to and terminate more senior certificated employees without first assessing their competencies to teach or perform duties for a course of study. However, the Court of Appeal also stated that the failure in that case to assess qualifications was not prejudicial because the competencies or qualifications of the senior certificated employees were considered by the school district in the administrative layoff proceeding. (*Bledsoe v. Biggs Unified School District*, Ibid., 170 Cal.App. 4th at 142.)

Here, the District appears to have given blanket skips to all of the teachers at EHS and LHS based on the trainings given to those teachers in the current school year without first analyzing and determining whether individual teachers, including more senior certificated employees, had, in fact, specialized training and experience to teach the course of study at the two high schools. Both the teachers at the two high schools whom the District seeks to skip, and more senior teachers at other high schools, were given the opportunity in the layoff hearing to present evidence of their certifications, training, and experiences to be able to teach at the two high schools. The evidence demonstrated that eight of the 15 certificated employees that the District seeks to skip do have special training and experience necessary to teach the course of study at the two high schools. These eight certificated employees provided evidence that they received special training in various educational strategies, interventions, and technologies; implemented the training; and have the experience of conducting frequent assessments, data analyses, collaboration, modification of their teaching methods, and other educational strategies in accordance with data and research based methodologies. On the other hand, the other seven certificated employees at the two high schools as well as more senior respondents were not shown to have received the specialized training and the necessary experience. For the most part, evidence was lacking for these

teachers regarding their experiences necessary to teach at the two high schools. In the circumstances of this matter then, the District's failure to first assess qualifications of the senior respondents in this matter was not necessarily prejudicial and the District demonstrated that those eight certificated employees may be skipped because they special training and experience necessary to teach at the two program improvement high schools that other more senior respondents or certificated employees do not have.

* * * * *

WHEREFORE, the Administrative Law Judge makes the following Order:

ORDER

1. The Accusation issued against respondents named in Conclusions of Law 3, 4, 5, and 7 shall be dismissed,. These respondents may not be given notice that their services will not be required for the 2011-2012 school year.
2. The Accusation issued against all of the remaining respondents is sustained, based on Conclusions of Law 1, 2, 6, 8, 9 and 10 above. The District may give notice to these respondents and certificated employees, and each of them, in the inverse order of seniority that their services will not be required for the ensuing 2011-2012 school year because of the reduction or discontinuance of particular kinds of services pursuant to Education Code section 44955.
- 3 The District may give notice to any respondents and certificated employees, who were served with notices and/or accusations that their services will not be needed next year but did not file requests for hearing or did not appear at the hearing, that their services will not be required for the ensuing 2011-2012 school year because of the reduction or discontinuance of particular kinds of services pursuant to Education Code sections 44949 and 44955.
4. Before giving notice to respondents, the District shall further determine and take into account any additional positively assured attrition among certificated employees in deciding how many and when respondents should be terminated before the ensuing 2011-2012 school year.

Dated: June 7, 2011

Vincent Nafarrete
Administrative Law Judge
Office of Administrative Hearings